

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:22-cv-00076-MR**

OSCAR PEREZ,)	
)	
Plaintiff,)	
)	
vs.)	
)	
FNU HUNEYCUTT, et al.,)	<u>ORDER</u>
)	
Defendants.)	
_____)	

THIS MATTER is before the Court on the Plaintiff's Letter [Doc. 14], which the Court construes as a Motion to Vacate Order Directing Full Payment from Prison Account.

The pro se Plaintiff, who is incarcerated in the North Carolina Department of Public Safety (NCDPS) filed this civil rights action pursuant to 42 U.S.C. § 1983. He filed an Application to proceed in forma pauperis [Doc. 4], but subsequently paid \$402 towards the filing fee [see July 14, 2022 docket notation]. On August 10, 2022, the Clerk then mistakenly entered an Order directing NCDPS to transmit payment of the \$350 filing fee to the Court from the Plaintiff's inmate account. [Doc. 11].

In the instant Motion, the Plaintiff asks the Court to address whether the August 10 Order was entered in error. The Motion will be granted and

the Order directing NCDPS to transmit payment is vacated. Further, it appears that the Plaintiff overpaid the \$350 filing fee by \$52. He will, accordingly, be issued a refund for the \$52 overpayment as well as any amount that has been transmitted from his prisoner account pursuant to the August 10 Order.

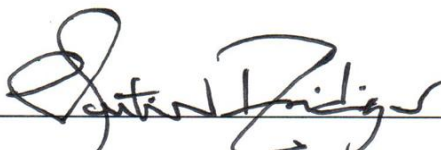
IT IS, THEREFORE, ORDERED that:

1. The Plaintiff's Letter [Doc. 14] is construed as a Motion to Vacate Order Directing Fully Payment from Prison Account and is **GRANTED**.
2. The Order instructing NCDPS to transmit the filing fee from the Plaintiff's prisoner account [Doc. 11] is **VACATED**.
3. The Clerk of Court's Financial Department is instructed to reimburse the Plaintiff for the overpayment of funds beyond \$350 that have been collected for the payment of the filing fee in this case.

The Clerk is respectfully directed to mail the Plaintiff a copy of this Order and the docket sheet.

IT IS SO ORDERED.

Signed: September 2, 2022



Martin Reidinger
Chief United States District Judge

